IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

PARSI SUIT NO. 25 OF 2006

Mrs. Binaifer Cytus Balsara. ...Plaintiff No.1.

and

Mr. Cyrus Kersi Balsara. ...Plaintiff No.2.

...

Miss. S.P. Nanavati for the Plaintiffs.

.....

CORAM : DR. D.Y. CHANDRACHUD,J.

13TH OCTOBER, 2006.

P.C. :

1. The Plaintiffs are Parsi Zoroastrians and were married on 24th December 1999 at Mumbai, in accordance with the rites and customs of the Parsi Religion. The Plaintiffs have a 4 & 1/2 year old child, Shahan, born from the wedlock. Irreconcilable differences developed between the parties about a year after the birth of the child. An amicable resolution of the differences between the parties was attempted. A reconciliation is not possible. The parties are living separately since January 2005.

2. The first and the second plaintiffs have tendered their affidavits in lieu of the examination in chief which are taken on the record. Both the parties have appeared before the Court. Parties have stated in their affidavits that they are agreed to a divorce by mutual consent under Section 32-B of the Parsi Marriage and Divorce Act, 1936. Consent Terms signed by the parties are annexed at Exhibit

B to the Plaint.

3. From the pleadings and the evidence it is clear that the parties have agreed to a divorce by mutual consent since it is not possible for them to co-habit together due to irreconcilable differences. The Court is satisfied that the consent of the parties to the application for divorce and to the Consent Terms has not been obtained by force, fraud or undue influence. The Consent Terms envisage that custody of the minor child shall be granted to the second plaintiff who is the father subject to access to the mother who is the first plaintiff. The arrangement which has been made by the parties for the custody of the minor son is in the interests of the welfare of the child. Both the parties are gainfully employed.

4. In these circumstances, there is no reason why a decree for divorce by mutual consent should not be granted as prayed.

5. The Suit is decreed in terms of prayer clauses (a) to (d).